IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

WRIT PETITION NO.2394 OF 2006

W.E.C. Nederland B.V. & Anr. .. Petitioners.
Versus
Union of India & Others .. Respondents.

Mr.M.S. Doctor i/by Saldhana for the petitioners.
Mr.P.S. Jetly, R.C. Master for respondent Nos.1,4 & 5.
Mr.E.P. Bharucha with Mr.Manjit i/by Mulla & Mulla for respondent Nos.2 and 3.
Mr.Ashwin Shankar for respondent No.7.

CORAM : H.L. GOKHALE, &
J.P. DEVADHAR, JJ.

DATED : 20TH OCTOBER, 2006.

P.C. :

1. The first petitioner is a Dutch Shipping Company. Amongst others, the company is engaged in the business of leasing containers. The second petitioner is its agent in India. The Respondent No.7 importer imported certain material for which he hired three containers owned by the first petitioner. On the containers arriving in Mumbai, the bill of lading was issued by the petitioners on 21st April, 2005. It is the case of the petitioners that the petitioners sent a notice to the importer to destuff the containers and release their containers. This was on 21st October, 2005. It is their further case and which is confirmed by the Customs Authorities that the assessment of the imported article for the purposes of duty has been subsequently done and the duty has been

paid by the importer. The containers are still being not released and, therefore, this petition has been filed with a prayer that the respondents be directed to forthwith release and return the three containers.

2. The Customs Authorities have not opposed this petition in asmuch as they have no claim either on the cargo or on the containers. The Port Trust, however, has opposed this petition by filing a reply by pointing out that after the containers were destuffed for the purposes of Customs duty assessment, they were required to be restuffed and the articles could not lie on the land of the Port Trust. Mr.Bharucha, the learned senior advocate appearing for the Port Trust informs us that accordingly notices were given to all the concerned parties to restuff the containers but that has not been done. There will be ground rent payable by the container owner and separate charges by the importer whose articles are occupying the land owned by the Port Trust separately. As far as the container owner is concerned, it is accepted that he has paid the charges until end of September, 2006.

3. In the circumstances, the Port Trust Authorities will release the containers on payment of Rs.6,900/- which are the remaining charges. Mr.Doctor states that the necessary charges will be paid and the containers will be removed within 48 hours and if

there is any additional payment for this further period, that also will be paid.

4. The petition stands disposed of in above terms with no order as to costs.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)